

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

ROGELIO ROSA,

Plaintiff,

-against-

ROSEN PARAMOUNT GLASS CO., INC., and
STANLEY ROSEN,

Defendants.

X

§

§

§

§

§

§

§

§

§

§

§

X

Civil Action No.: 11 CIV 2123

VERIFIED ANSWER

C O U N S E L O R S :

The Defendants, ROSEN PARAMOUNT GLASS CO., INC. and STANLEY ROSEN,
by and through their attorney, LAW OFFICE OF GLENN J. INGOGLIA, do hereby answer
the Plaintiff, ROGELIO ROSA's Complaint, upon information and belief, as follows:

1. Denies those allegations contained in the paragraphs of the Complaint therein
designated "1," "4," "6," "7," "8," "9," "10," "11," "12," "13," "14," "15," "16," "17," "18,"
"19," "20," "21," "22," "24," "25," "26," "27," "28," "29," "30," "31," "33," "34," "35," "36,"
"37," "38," "39," "40," "41," "42," "43," "44," "45," "46," and "47."

2. Denies in the form alleged, those allegations contained in the paragraphs of the
Complaint therein designated "32."

3. Denies those allegations contained in the paragraphs of the Complaint therein
designated "2", except Defendants admit that "This Court has jurisdiction over this matter
pursuant 28 U.S.C. 1331, 1337, 1343."

4. Denies those allegations contained in the paragraphs of the Complaint therein

designated “3”, except Defendants admit that “venue is proper pursuant to 28 U.S.C. 1391.”

5. Admit those allegations contained in the paragraphs of the Complaint therein designated “5,” “23,” and “48.”

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Defendants upon which relief can be granted, in that, Plaintiff fails to allege in his Complaint with specificity which provisions of the Fair Labor Standards Act and New York Labor Law, that the Defendants allegedly violated.

SECOND AFFIRMATIVE DEFENSE

The claims are barred to the extent that they were not filed within the applicable statutes of limitation and/or administrative filing periods.

THIRD AFFIRMATIVE DEFENSE

The claims are barred, in whole or in part, by the principles of waiver and/or estoppel.

FOURTH AFFIRMATIVE DEFENSE

The claims are barred to the extent that Plaintiffs failed to timely and properly exhaust all necessary administrative, statutory and/or jurisdictional prerequisites for the commencement of this action.

FIFTH AFFIRMATIVE DEFENSE

The Defendants did not engage in commerce or in the production of goods for commerce, or employ Plaintiff in an enterprise engaged in commerce or in the production of goods for commerce, and therefore, not liable to the Plaintiff for any damages alleged pursuant to 29 U.S.C. 216.

SIXTH AFFIRMATIVE DEFENSE

A defense is founded upon documentary evidence.

SEVENTH AFFIRMATIVE DEFENSE

The Plaintiff's claims against STANLEY ROSEN or ROSEN PARAMOUNT GLASS CO., INC., should be dismissed immediately in order to avoid the possibility of duplicative awards and a windfall to the Plaintiff.

EIGHTH AFFIRMATIVE DEFENSE

The court should not proceed in the absence of a person who should be a party.

NINTH AFFIRMATIVE DEFENSE

Any damages allegedly sustained by the Plaintiff, were due in whole or in part, to the conduct, actions or inactions of those persons who are not a party to this lawsuit.

TENTH AFFIRMATIVE DEFENSE

The Plaintiff was not an employee of the Defendants and therefore cannot recover damages.

ELEVENTH AFFIRMATIVE DEFENSE

The Defendants paid the Plaintiff for all regular pay and overtime hours he allegedly worked.

TWELFTH AFFIRMATIVE DEFENSE

The Defendant, STANLEY ROSEN, is an officer of ROSEN PARAMOUNT GLASS CO., INC., and therefore, Plaintiff may not pierce the corporate veil and hold Defendant, STANLEY ROSEN, liable for any damages allegedly caused by Defendant, ROSEN PARAMOUNT GLASS, CO., INC.

PRAYER

Defendants ask the Court to enter judgment that Plaintiff take nothing, dismiss Plaintiff's suit with prejudice, assess costs against Plaintiff, and award Defendants all other relief to which they are entitled.

Dated: Island Park, New York
June 10, 2011

Yours, etc.,

LAW OFFICE OF GLENN J. INGOGLIA

By: 

GLENN J. INGOGLIA, ESQ. (GI 1655)
Attorney for Defendants
ROSEN PARAMOUNT GLASS CO., INC. and
STANLEY ROSEN
104 Long Beach Road
Island Park, New York 11558
(516) 432-0500

TO:

Mark L. Lubelsky and Associates
Attorney for Plaintiff
ROGELIO ROSA
123 W. 18th Street, Eighth Floor
New York, NY 10011
(212) 242-7480

VERIFICATION

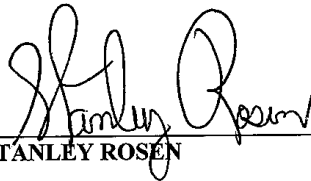
STATE OF NEW YORK}

ss.:

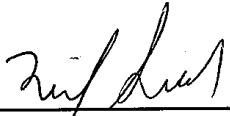
COUNTY OF NEW YORK}

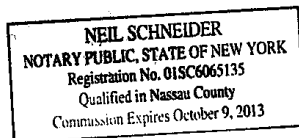
STANLEY ROSEN, being duly sworn, deposes and says:

I am a party to this action and am over the age of eighteen years old. I have read the foregoing Answer and know the contents thereof; and the same is true to my knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.


STANLEY ROSEN

Sworn to and Subscribed before me this
14 Day of June, 2011


Notary Public



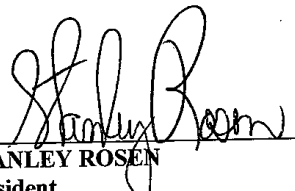
VERIFICATION

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)


☒ Corporation Verification

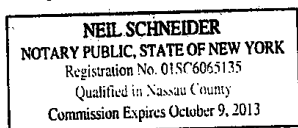
STANLEY ROSEN, being duly sworn, deposes and says:

I am the President of ROSEN PARAMOUNT GLASS CO., INC., defendant in this action. I have read the within answer and know its contents; it is true to the best of my knowledge, except as to the matters stated to be alleged upon information and belief, and as to those matter I believe them to be true. The grounds of my belief as to all matters not stated upon my knowledge are documents underlying the transactions that are the subject matter of this action. I make this verification because defendant ROSEN PARAMOUNT GLASS CO., INC., is a corporation. As stated above, I am an officer of ROSEN PARAMOUNT GLASS CO., INC.


STANLEY ROSEN
President
ROSEN PARAMOUNT GLASS CO.,
INC.

Sworn to and Subscribed before me this
14 day of June, 2010


Notary Public



~ 7 ~

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

-----X	
ROGELIO ROSA,	§
	§
Plaintiff,	§ Civil Action No.: 11 CIV 2123
	§
-against-	§
	§ <u>AFFIRMATION OF SERVICE</u>
	§
ROSEN PARAMOUNT GLASS CO., INC., and	§
STANLEY ROSEN,	§
	§
Defendants.	§
-----X	

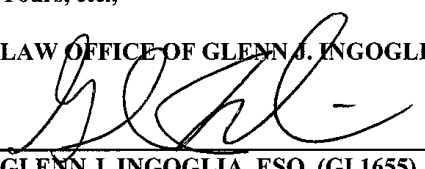
I GLENN J. INGOGLIA, ESQ., declare under the penalty of perjury that I have served a copy of the attached VERIFIED ANSWER and RULE 7.1 STATEMENT upon Mark L. Lubelsky and Associates, who are the attorneys in charge for Plaintiff, ROGELIO ROSA, and whose address is 123 West 18th Street, Eighth Floor, New York, New York 10011, telephone number (212) 242-7480, by Certified U.S. Mail, return receipt requested, on June 15, 2011.

Dated: Island Park, New York
June 15, 2011

Yours, etc.,

LAW OFFICE OF GLENN J. INGOGLIA

By:



GLENN J. INGOGLIA, ESQ. (GI 1655)
Attorney for Defendants
ROSEN PARAMOUNT GLASS CO., INC. and
STANLEY ROSEN
104 Long Beach Road
Island Park, New York 11558
(516) 432-0500